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APPLICATION NO.	FILING DATE	FIRST NAMED IN	VENTOR		ATTORNEY DOCKET NO.
09/590,044	06/08/00	JACOBSON		J	109026-0068
		MM91/0913	\neg	EXAMINER	
CESARI AND MCKENNA LLP				BEREZ	NY, N
30 ROWES WH BOSTON MA 0				ART UNIT	PAPER NUMBER
				2823	
				DATE MAILED) :
					09/13/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

	Application No.	Applicant(s)				
	09/590,044	JACOBSON ET AL.				
Office Action Summary	Examiner	Art Unit				
	Neal Berezny	2823				
The MAILING DATE of this communication app ars on the cover sheet with the correspondence address Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. If the period for reply specified above is less than thirty (30) days, a reply If NO period for reply is specified above, the maximum statutory period we Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b). Status	6(a). In no event, however, may a reply be tir within the statutory minimum of thirty (30) day ill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	nely filed rs will be considered timely. I the mailing date of this communication. D (35 U.S.C. § 133).				
1) Responsive to communication(s) filed on 29 A	<u>ugust 2000</u> .					
2a) This action is FINAL. 2b) This	s action is non-final.					
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims						
4) Claim(s) 1-30 is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6) Claim(s) is/are rejected.						
7) Claim(s) is/are objected to.						
8) Claim(s) 1-30 are subject to restriction and/or election requirement.						
Application Papers						
9) The specification is objected to by the Examiner.						
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
11) ☐ The proposed drawing correction filed on is: a) ☐ approved b) ☐ disapproved by the Examiner.						
If approved, corrected drawings are required in reply to this Office action.						
12) The oath or declaration is objected to by the Examiner.						
Pri rity under 35 U.S.C. §§ 119 and 120						
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).						
a) ☐ All b) ☐ Some * c) ☐ None of:						
1. Certified copies of the priority documents						
2. Certified copies of the priority documents						
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 						
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).						
a) ☐ The translation of the foreign language prov 15)☐ Acknowledgment is made of a claim for domestic	visional application has been rec	eived.				
Attachment(s)						
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s)	5) Notice of Informal	y (PTO-413) Paper No(s) Patent Application (PTO-152)				

Application/Control Number: 09/590,044

Art Unit: 2823

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- Claims 1-21, 24-30, drawn to a method of making a bioelectric device, classified in class 438, subclass 1.
- II. Claims 22-23, drawn to a bioelectric device, classified in class 257, subclass 40.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the nanoparticles could be etched from the surface and then coated with biomaterial.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

CONCLUSION

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neal Berezny whose telephone number is (703) 305-1481. The examiner can normally be reached on Monday to Friday from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael Fahmy, can be reached at (703) 308-4918. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7724.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-

0956

SUPERVISORY PRIMARY ELTIMAR

TECTO TO THE

Neal Berezny

Patent Examiner

Neal Bongs 9/9/01

Art Unit 2823